

IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1267/SRT/2024

Assessment Year: (2017-18)

(Hybrid hearing)

Anuj Satishkumar Bansal, 302, Shri Hari Appartment, Piplod Road Near Lancer Army School, Surat 395007, Gujarat	Vs.	ITO, Ward – 1(3)(1), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: BWXPB3655C		
(Appellant)		(Respondent)

Appellant by	Shri Ramesh Malpani, CA
Respondent by	Shri Ajay Uke, Sr. DR
Date of Hearing	08/07/2025
Date of Pronouncement	31/07/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 ('in short, the Act') dated 25.10.2024 by the Commissioner of Income-tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi [in short "the CIT(A)"] for the assessment year (AY) 2017-18.

2. The grounds of appeal raised by the appellant are as follows:

"1. That on the facts and in the circumstances of the case as well as in law, Ld. CIT(A), NFAC, Delhi [CIT (A)] has erred in dismissing the appeal of the appellant on ex – parte basis, without considering the submission of appellant in the 'statement of facts' and without considering the evidences furnished to the AO and relied before Ld. CIT(ADJ) as per clause '11' of Form No. '35' of the appeal

memo and which evidences are available for consideration on ITBA portal. Ld. CIT(A) has clearly erred in law in dismissing all the grounds of appeal without considering above submission and evidences.

2. That on the facts and in the circumstances of the case as well as in law, Ld. CIT(A) has erred in upholding the validity of the deemed notice u/s.148A(b); order u/s.148A; notice issued u/s.148 of the I.T. Act, 1961 by dismissing the appeal of the appellant in summary manner, without considering the submission and evidences before him as mentioned in ground no. '1' above. It is humble contention of the appellant that whole of the proceeding carried out u/s.147/148/148A and consequent assessment order passed u/s.147 r.w.s. 144B of the Act are invalid, unjustified, bad in law and without authority of law. Appellant prays for quashing the same.

3. That on the facts and in the circumstances of the case as well as in law, Ld. CIT(ADJ) has erred in upholding the addition of Rs.1,42,38,500/- u/s.69A of the Act in respect of duly accounted for and explained credits in bank accounts of appellant, by wrongly dismissing the appeal without considering the submission and evidences filed/relied before him as mentioned in ground no. '1' above. Addition so made is completely wrong and unjustified. Appellant prays for deleting the same.

4. That on the facts and in the circumstances of the case as well as in law, Ld. CIT(A) has erred in upholding the addition of Rs.7,97,000/- u/s.69A of the Act in respect of duly accounted for and explained cash deposited in bank account of appellant during demonetization period, by wrongly dismissing the appeal without considering the submission and evidences filed/relied before him as mentioned in ground no. '1' above. Addition so made is completely wrong and unjustified. Appellant prays for deleting the same.

5. That the Ld. CIT (A) has also erred in dismissing the ground of appeal against charging of tax at higher rate of 60% + surcharge u/s.115BBE of the Act, which is a legal ground.

6. That on the facts and circumstances of the case as well as in law, the interest charges by Ld. F.A.O. u/s.234A/234B of the Act is wrong and unjustified and Ld. CIT(A) has erred in upholding the same by dismissing the appeal of the appellant on ex-parte basis.

7. Appellant craves leave to add, alter, delete or modify any ground of appeal."

3. Facts of the case in brief are that the assessee filed his return of income on 14.03.2018 for AY.2017-18, declaring total income of Rs.18,11,050/-. Return so filed was processed and accepted u/s 143(1) of the Act. As per the information received by the department, appellant had total credits of Rs.2,02,52,000/- in his bank account maintained with the Bank of Baroda during AY 2017-18. In the return filed by the appellant for the A.Y. 2017-18, the appellant had shown cash deposits of Rs.5,97,000/- in his account No.6495881047 maintained with the Indian Bank and Rs.2,00,000/- in his bank account No.5986006900000665 maintained with Punjab National Bank. Therefore, the Assessing Officer (in short, 'AO') reopened the case by issuing notice u/s 148 of the Act on 30.07.2022 after obtaining approval from the competent authority. During the re-assessment proceedings, notices u/s 142(1) and show cause notice were issued to the assessee. In response, the assessee had furnished his submissions, which are detailed in the table at para 2 of the assessment order. After considering replies of assessee, the AO passed order u/s 147 r.w.s 144B of the Act and assessed the total income at Rs.1,68,46,550/-. He made additions of Rs.1,42,38,500/- u/s 69A of the Act towards the credits in the bank account and Rs.7,97,000/- u/s 69A, being cash deposit in the bank account and levied tax at the enhanced rate u/s 115BBE of the Act.

4. Aggrieved by the order of the AO, appellant preferred appeal before Ld. CIT(A). The CIT(A) observed that the appellant was provided with multiple opportunities to submit documents and make submissions in response to the appeal filed. However, the appellant has not exercised the option despite multiple reminders, which indicated that the appellant was not interested in pursuing the appeal. Resultantly, the CIT(A) confirmed the additions made by the AO and dismissed the appeal of the appellant.

5. Aggrieved by the order of CIT(A), the assessee has filed the present appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the appellant submitted a paper book containing copy of written submission before CIT(A), evidences submitted to the AO, approval of order u/s 148A(d) and notice u/s 148 by the PCIT-1, Surat, bank statements, copies of A/c confirmations/ledgers, contra accounts, bank statement/cheques of the lenders, copies of ITR along with computation of total income, capital account and balance sheet of the appellant, copies of gift declarations by mother of the assessee, case laws relied upon, etc. The Id. AR submitted that same written submission was made by him before the CIT(A) and AO by uploading them on ITBA portal. Appellant has also annexed ITBA screenshot evidencing furnishing of all the evidences and their uploading on ITBA portal. The Id. AR also submitted that order u/s 148A(d) and notice u/s 148 were issued by the AO

with prior approval of PCIT-1, Surat whereas the approval of the PCCIT/CCIT was required u/s 151(ii) of the Act. For this view, he relied on the decisions in cases of (i) Pradeep Himatlal Shah vs. ITO, (2025) 170 taxmann.com 471 (Bom.), (ii) ACIT vs. Surya Ferrous Alloys (P) Ltd., (2024) 169 taxmann.com 736 (Mum – Trib.) and (iii) ACIT vs. Ms. Asha P. Kedia, (2024) 174 taxmann.com 99 (Mum – Trib.). Hence, the order passed by the AO is invalid and bad in law.

5.1 The Id. AR also submitted that credit entries of Rs.1,42,38,500/- made in the bank account of appellant and cash deposits of Rs.7,97,000/- are duly accounted for. He submitted that section 69A of the Act applies to the money owned by the appellant, which is not recorded in the books of account. In this case, the aforesaid amounts credited in bank account of the appellant have been duly accounted for in the books of account maintained by the appellant. The bank account is also reflected in the ITR filed by the appellant. Therefore, he submitted that the addition u/s 69A of the Act is clearly wrong and beyond the scope of Section 69A of the Act. The Id. AR further submitted that even from the point of view of section 68 of the Act, the nature and source of these credits were duly explained by furnishing account confirmations/ledgers, contra accounts, PAN and relevant extracts of bank statements of lenders of loans of Rs.1,26,45,000/-. These loans are duly reflected in the balance sheet of appellant. In respect of remaining credit, it was explained that amount of

Rs.12,50,000/- is for cheque returned, which was debited back in the bank account and Rs.3,43,500/- is the amount paid to "Avadh Club Ltd." on 06.05.2016, which was received back on 02.01.2017. Thus, onus u/s 68 of the Act has been duly discharged by the appellant in view of the law laid down in following cases, viz., (i) CIT Vs. Orissa Corporation (P) Ltd. 1986 taxmann.com 1163 (SC) and (ii) CIT Vs. Ranchhod Jivabhai Nakhava, 21 taxmann.com 159 (Guj.). As regards, the cash deposit of Rs.7,97,000/-, the Id. AR submitted that the source of the cash is gift from mother of the appellant, Smt. Babli Satishkumar Bansal. In support, copies of gift declarations along with her ITR, computation of total income, capital account, balance sheet were submitted evidencing the gift given to the appellant. The gift of Rs.8,00,000/- received from mother in cash on 15.10.2016 was the source of cash deposit of Rs.7,97,000/- in the bank accounts. The Id. AR submitted that the additions are liable to be dismissed both on merit as well as on jurisdiction.

6. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) relied upon the order of lower authorities. He submitted that in absence of details and supporting evidence, the addition made by the AO cannot be said to be improper.

7. We have heard both the parties and perused the materials available on record. We have also deliberated upon the decision relied on by the Id. AR. On

basis of information available with department, the AO found that assessee had total credits of Rs.2,02,52,000/- in his bank account maintained with Bank of Baroda. Further, as per the ITR of the year, assessee had deposited cash of Rs.5,97,000/- and Rs.2,00,000/- in his bank accounts with Indian Bank and Punjab National Bank respectively. Therefore, the case was re-opened after passing order u/s 148A(d) of the Act on 29.07.2022 and notice u/s 148 of the Act was issued on 30.07.2022. The AO issued various notices and show cause notices in response to which assessee filed various details. The AO was not satisfied with explanation of the assessee regarding credit of Rs.1,42,38,500/- out of the total credit of Rs.2,02,52,863/-. The same was added u/s 69A of the Act. The AO also added Rs.7,97,000/- u/s 69A of the Act towards cash deposit during demonetization period. The Id. AR submitted that credit entries of Rs.1,42,38,500/- made in the bank account of appellant and cash deposits of Rs.7,97,000/- are duly accounted for. He also submitted that section 69A of the Act applies to the money owned by the appellant, which is not recorded in the books of account. In this case, the aforesaid amounts credited in bank account of the appellant have been duly accounted for in the books of account maintained by the appellant. The bank account is reflected in the ITR filed by the appellant. Therefore, he submitted that the addition u/s 69A of the Act is clearly wrong and beyond the scope of Section 69A of the Act. He also

submitted that even from the point of view of section 68 of the Act, the nature and source of these credits were duly explained by furnishing account confirmations/ledgers, contra accounts, PAN and relevant extracts of bank statements of lenders of loans of Rs.1,26,45,000/-. In respect of remaining credit, it was explained that amount of Rs.12,50,000/- is for cheque returned, which was debited back in the bank account and Rs.3,43,500/- is the amount paid to "Avadh Club Ltd." on 06.05.2016 which was received back on 02.01.2017. Let us discuss the scope and ambit of the provisions of section 69A of the Act against the undisputed factual position discussed above. Section 69A of the Act reads as under:

"Unexplained money, etc.

69A. *Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year."*

7.1 In this case, the foundational requirement of the provision that the money is not recorded in the books of account is absent. Therefore, the addition made u/s 69A of the Act, is legally untenable. Be that as it may, the appellant has also furnished all necessary details in support of the unsecured loans, which has not been controverted by revenue at any stage including

before the Tribunal. In absence of any adverse finding regarding the genuineness or completeness of the books of account, the reliance on section 69A appears misplaced. It may be stated that mere deposit in a bank account cannot trigger addition u/s 69A of the Act if the same is duly accounted for and disclosed in the regular books of account. In view of the above factual and legal positions, we are of the considered view that the addition of Rs.1,50,35,500/- (1,42,38,500 + 7,97,000) made by the AO u/s 69A of the Act is not unjustified and liable to be deleted. Even otherwise, the impugned amount are also not liable for addition u/s 68 of the Act in view of the details furnished by the appellant and the authoritative precedents by the Hon'ble Supreme Court and Hon'ble jurisdictional High Court of Gujarat in cases of Orrisa Corporation Pvt. Ltd. (supra) and Ranchod Jivabhai Nakhava (supra). Accordingly, grounds Nos. 3 & 4 are allowed.

8. The Id. AR has also contended that the order u/s 148A(d) and notice u/s 148 of the Act, both dated 29.07.2022 are invalid as they were issued with prior approval of the PCIT-1, Surat instead of the approval of the PCCIT/CCIT, as mandated u/s 151(ii) of the Act because period of three years had already elapsed from the end of the subject AY 2017-18. We have already decided the issue on merit in favour of the appellant. Hence, this issue becomes academic in nature and does not require adjudication.

9. The appellant has also raised a ground regarding charging of interest at the enhanced rate of 60% plus surcharge u/s 115BBE of the Act. He has also argued against levy of interest u/s 234A and 234B of the Act. Since, addition u/s 69A of the Act has been deleted, the ground on levy of tax u/s 115BBE of the Act is infructuous. As regards the levy of interest u/s 234A and 234B of the Act is concerned, the Hon'ble Supreme Court in case of Anjum M.H. Ghasswala, 252 ITR 1 (SC) held that levy of interest is mandatory. The AO shall levy the interest u/s 234B and 234C of the Act as per law after giving effect to this order.

10. In the result, the appeal of the assessee is allowed.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 31/07/2025.

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat

दिनांक/ Date: 31/07/2025

SAMANTA

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

By Order

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Assistant Registrar/Sr. PS/PS
ITAT, Surat